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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,009	03/19/2004	Phillip G. Silva	SAM1 570	6990
34356	7590	11/21/2005		
ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216			EXAMINER THOMAS, ALEXANDER S	
			ART UNIT 1772	PAPER NUMBER

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,009	Applicant(s) SILVA, PHILLIP G.	
	Examiner Alexander Thomas	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/19/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kubicky 6,322,863. See column 3, lines 43-52 and the Figures.
3. Claims 1, 3, 5, 7, 8, 10, 12 and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mandish et al 5,292,467. See Figures 1 and 2, column 3, lines 33-48 and column 4, lines 26-41.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubicky. The reference discloses the invention substantially as claimed, namely an elongate body formed from recycled tire material having sidewalls and a reinforcing member extending within the body parallel to the longitudinal axis of the body; see column 3, lines 43-52, column 5, lines 21-27 and the Figures. The elongate body may

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have any shape in view of the disclosure at column 5, lines 21-27. However, it does not disclose the claimed shape of the reinforcing member. It would have been obvious to one of ordinary skill in the art to vary the shape of the reinforcing member to any shape depending on the end use of the elongate body and its desired structural properties.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubicky in view of Barmakian 6,244,014. The primary reference discloses the invention substantially as claimed, namely an elongate body formed from recycled tire material having sidewalls and a reinforcing member extending within the body parallel to the longitudinal axis of the body; see column 3, lines 43-52 and the Figures. However the primary reference does not teach the use of helical reinforcement. The secondary reference discloses the use of helical reinforcement within a pole shaped structural member for improving bending strength; see column 1, lines 4-7 and column 2, lines 1-5. It would have been obvious to one of ordinary skill in the art to use a helical reinforcement member in the product of the primary reference in view of the teachings in the secondary reference in order to provide a structural member with improved bending strength when desired for a particular end use.

7. Claims 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubicky in view of Barnes et al 6,390,436. The primary reference discloses the invention substantially as claimed, namely an elongate body formed from recycled tire material having sidewalls and a reinforcing member extending within the body parallel to the longitudinal axis of the body; see column 3, lines 43-52 and the Figures. However, it does not disclose the use of a connecting means. Barnes et al disclose the use of a

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hinged connecting means on pole structures to provide a breakaway pole which directs the location of the fall of the pole; see the Figures and column 1, lines 11-15. It would have been obvious to one of ordinary skill in the art to provide the pole product of the primary reference with a hinged connector means as taught by the secondary reference in order to direct the fall of the pole when the pole is struck.

8. The document cited on the Information Disclosure Statement that was not considered, was not considered because the number is incorrect.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ALEXANDER S. THOMAS
PRIMARY EXAMINER